



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,274	04/13/2007	Hitoshi Takamatsu	740165-439	3409

25570 7590 08/14/2009
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
----------	--------------

3616

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/14/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lgallaugh@rmsclaw.com
dbeltran@rmsclaw.com
bdiaz@rmsclaw.com

Office Action Summary	Application No.	Applicant(s)	
	10/594,274	TAKAMATSU ET AL.	
	Examiner	Art Unit	
	Eric Culbreth	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,7-9,11-19,21,22 and 24-27 is/are rejected.
- 7) ☒ Claim(s) 10 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-26-06 & 5/13/09</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following informalities. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

- a. In Figure 1, it is not clear where part 72 is attached (no phantom lines).
- b. Throughout Figures 1 and 2 reference numerals like 16, 46, 62, etc. should not be underlined (underlining indicates the reference numeral rests on the part to which it refers).

c. Also, reference numeral 46 in Figure 2 does not have a lead line (paragraph [0037]).

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it is more than a single paragraph (see above). Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

a. In paragraph [0002], line 2 "Document 1" is not understood (there is no clear document 1 identified by the specification at this point). See also paragraph [0004].

b. The specification should not refer to specific claims in describing the invention (paragraphs [0006] through [0021], as the correlation may not last through prosecution (i.e., claim 2 mentioned in paragraph [0007] has been canceled) and the

Art Unit: 3616

specification should be describing the invention for the person making and using the invention, not for legal purposes, which is what the claims involve.

c. In paragraph [0026], line 1, "structures" is idiomatic (the word is not used in this manner in the English language and hence is not clear). This word is used improperly throughout the remainder of the specification (paragraphs [0027] and [0028], among other places like paragraphs [0059] and [0060].

Appropriate correction is required.

5. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

This refers to paragraphs [0002] and [0004].

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The terms "rotating member" (claim 1 and the remainder of

Art Unit: 3616

the claims) and "maintaining component" (claim 2 and the remainder of the claims); all terms and phrases in the claims should have clear antecedent basis in the specification. The remainder of the claims should be reviewed to make sure all terms and phrases are in the specification.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 9-10, 16, 21, 23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 9, it would not appear to be accurate to recite a moving member which sets the engaging member by engaging it (i.e., this would appear to occur in the invention).

b. In claim 10, line 1 "moving/urging member" is not clear (does it have to move and urge, or does it have to move or urge).

c. Similarly, in claim 16 "moving/urging member" is not clear.

d. In claim 21, line 7 "or the like" is indefinite, suggesting structure but not clearly or positively stating what it is.

e. Also, in claim 21, the lock member recited in line 5 would appear to be a double inclusion of the engaging member recited in line 11.

Art Unit: 3616

f. In claim 23, line 23 "moving/urging member" is indefinite for the reasons given above.

g. In claim 25 it is not clear what the "restricting member" of line 1 is (this may be a double inclusion of a part recited earlier).

h. Also in claim 25, "moving/urging member" is indefinite for reasons given above.

i. In claim 25 there is no antecedent basis for "the moving/urging member" as claim 25 depends from claims 1 and 24, which do not recite the moving/urging member.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 7-9, 11-19, 21-22 and 24-27 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Kajiyama et al US006435441B1 (of record, cited by applicant).

Kajiyama et al disclose a webbing retractor comprising rotating member or spool 4 that can take up or pull out webbing 3, pretensioner 11 that takes up the webbing (Figure 4, but this part is on the invention as well as the prior art as per column 5, lines 1-12), and an engaging member 38 which at the time of pretensioner operation is

Art Unit: 3616

changed from nonengaging state to engaging state only engaging in the pullout direction, hence impeding rotation of the rotating member by engaging with the rotating member (claims 1 and 8). Engaging member 38 is also a maintaining component for maintaining a load after operation of the pretensioner mechanism (claim 7). Regarding claims 9, 15-16 and 22, spring 39 is an urging component urging the engaging member 38 toward the engageable state and member 40 is a moving/urging member which engages engaging member 38 is moved by the pretensioner mechanism (via member 42 which is moved by gas from the pretensioner) to release the engaging member to the engaging state. The engaging member 38 is maintained after operation of the pretensioning mechanism (claims 11, 17, 19 and 24). In Figure 4 the pretensioner 11 is on one side of the shaft 7 on which the webbing is taken up to apply rotational force to the rotating member (claims 12, 18 and 26). When the pretensioner mechanism is operated the engaging member 38 changes from a state in which pulling out of the webbing cannot be impeded to a state where taking up of the webbing is permitted but pulling out is impeded by the engaging member engaging the rotating member for one way movement (claims 13-14). Kajiyama et al would appear to meet the positive limitations of claim 21 (the engaging member is also a lock member). Kajiyama et al would appear to meet the positive limitations of claim 25. The retractor is on a vehicle (column 1, lines 14-15) (claim 27).

Allowable Subject Matter

11. Claims 10 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Culbreth
Primary Examiner
Art Unit 3616

/Eric Culbreth/
Primary Examiner, Art Unit 3616